

## Department of Labor

2912.302

the purchase request. The justification must state that the product, or specific product feature, is essential to the Government's requirements and other similar products or features will not meet these requirements. This determination must be signed by a representative of the office originating the request and must accompany the purchase requisition submitted to the appropriate contracting office. If such a justification is not made, the contracting officer may assume that another make and model or a generic product could equally meet the DOL requirement.

(b) In accordance with FAR 10.002(b), the requisitioning office must submit to the contracting officer information demonstrating that a variety of products from various commercial sources have been considered. This requirement is not necessary for required sources (See FAR 8.001). Orders to be placed against non-mandatory sources, such as the Federal Supply Schedules, or other Governmentwide Acquisition Contracts, should include product information concerning multiple sources based on research from *www.contractdirectory.gov* site or other sources. When documented in this manner, the contracting officer may rely on this information in developing a procurement strategy, or for documenting the comparison of catalogs or pricelists.

[69 FR 22991, Apr. 27, 2004]

### **PART 2911—DESCRIBING AGENCY NEEDS**

#### **Subpart 2911.1—Selecting And Developing Requirements Documents**

Sec.

2911.103 Market acceptance.

#### **Subpart 2911.5—Liquidated Damages**

2911.501 Policy.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 69 FR 22991, Apr. 27, 2004, unless otherwise noted.

#### **Subpart 2911.1—Selecting And Developing Requirements Documents**

#### **2911.103 Market acceptance.**

The authority of the Head of an Agency under FAR 11.103(a), to require offerors to demonstrate that the items offered have either achieved commercial market acceptance or been satisfactorily supplied to an agency under current or recent contracts for the same or similar requirements, and otherwise meet the item description, specifications, or other criteria prescribed in the public notice and solicitation, is delegated to the HCA.

#### **Subpart 2911.5—Liquidated Damages**

#### **2911.501 Policy.**

In accordance with FAR 11.501(d), the authority of the Head of Agency to recommend to the Department of Treasury, Commissioner, Financial Management Services, that the amount of a contractor's liquidated damages be waived or reduced in whole or in part, is delegated to the HCA.

### **PART 2912—ACQUISITION OF COMMERCIAL ITEMS**

#### **Subpart 2912.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items**

Sec.

2912.302 Tailoring of provisions and clauses for the acquisition of commercial items.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 69 FR 22991, Apr. 27, 2004, unless otherwise noted.

#### **Subpart 2912.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items**

#### **2912.302 Tailoring of provisions and clauses for the acquisition of commercial items.**

In accordance with FAR 12.302(c), a request for waiver to tailor terms inconsistent with customary commercial

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practice must be documented in a written justification by the contracting officer, and may be approved by the HCA on an individual or class basis.

**PART 2913—SIMPLIFIED  
ACQUISITION PROCEDURES**

**Subpart 2913.1—Procedures**

Sec.

2913.106-3 Soliciting competition, evaluation of quotations or offers, award and documentation.

**Subpart 2913.2—Actions At Or Below The  
Micro-Purchase Threshold**

2913.201 General.

**Subpart 2913.3—Simplified Acquisition  
Methods**

2913.301 Governmentwide commercial purchase card.

2913.307 Forms.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 69 FR 22991, Apr. 27, 2004, unless otherwise noted.

**Subpart 2913.1—Procedures**

**2913.106-3 Soliciting competition,  
evaluation of quotations or offers,  
award and documentation.**

In accordance with FAR 13.106-3(b), simplified acquisition files must contain documentation of the factors considered in making an award in excess of the micro-purchase threshold. When other than the lowest responsive quotation from a responsible supplier is used as the basis for a purchase, the contracting officer must identify the basis (*i.e.*, best value) of the award and include in the purchase file documentation of the reasons for rejecting any lower quotation and the name of the individual responsible for making the determination to award to other than the lowest priced quotation. The contracting officer has broad discretion in determining the award of a purchase order, which may be based on the factors listed in FAR 13.106-3. This requirement does not necessitate a separate determination if the procurement file contains preprinted standardized classifications for award.

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**Subpart 2913.2—Actions at or  
Below the Micro-Purchase  
Threshold**

**2913.201 General.**

The Government commercial purchase card must be used in preference to other methods of procurement for purchases up to the micro-purchase threshold. Other small purchase methods (blanket purchase agreements, third party drafts, and purchase orders) may be used in lieu of the Government purchase card when it is more cost-effective or practicable.

**Subpart 2913.3—Simplified  
Acquisition Methods**

**2913.301 Governmentwide commercial  
purchase card.**

(a) The Government purchase card has far fewer requirements for documentation than other methods of purchasing. However, the same legal restrictions apply to credit card purchases that apply to other purchases using appropriated funds. If a purchase cardholder has questions about the lawfulness of a particular purchase, he or she must initially consult his or her appropriate office purchase card administrator, who will consult the Office of the Solicitor as necessary.

(b) GAO decisions surrounding the concept of the “availability of appropriations” are often stated in terms of whether appropriated funds are or are not “legally available” for a given expenditure. Restrictions on the purposes for which appropriated funds may be used come from a variety of sources, including the DOL Appropriations Acts, and decisions of the Comptroller General and his predecessor, the Comptroller of the Treasury.

(c) HCAs, administrative officers, and contracting officers are encouraged to review the GAO publication entitled Principles of Federal Appropriations Law. This document must be consulted when developing Office/Agency Purchase/Credit Card Program procedures. A number of the more common restrictions which “accounting officers of the Government” have had frequent occasion to consider and apply include, for example: